IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No.3237-M of 2007
Date of decision: January 19, 2007.

Nath Singh

...**Petitioner(s)**

v.

State of Punjab & Ors.

...**Respondent(s)**

Present: Shri Bhupinder Singh Thind, Advocate for the petitioner.

Surya Kant, J. (Oral)

The prayer in this petition under section 438(2) Cr.P.C. is for cancellation of bail granted to respondents No.2 and 3 by the learned Additional Sessions Judge-I, Rupnagar vide his order dated 12.9.2006 in FIR No.58 dated 24.6.2006, under Section 3(x) of the Scheduled Castes& Scheduled Tribes (Prevention of Atrocities) Act, 1989, registered at Police Station Nangal, District Ropar.

The petitioner is the complainant in the above stated FIR.

On a perusal of the impugned order passed by the learned Special Judge, Rupnagar, it is apparent that discretionary jurisdiction under Section 438 Cr.P.C. has been invoked after forming a *prima-facie* opinion that no offence under Section 3 of the Act is made out. In this regard, a detailed reference has been made to the inquiry conducted by the Dy.S.P. to whom the same was entrusted by the Superintendent of Police (D) and, who, after recording the statements of various persons, is stated to have concluded in his report dated 28.10.2005 that *prima-facie* commission of no offence under the Act is made out.

The learned Special Judge has also referred to the nature of allegations made in the FIR and thereafter only he has formed the *prima-facie* view.

It is well settled that an order granting bail passed by a court of

competent jurisdiction, cannot be lightly interfered with and concession of bail cannot be withdrawn unless a very strong case of inherent lack of jurisdiction or clear misuse/abuse of that concession, is made out. No such allegations are made in this petition.

Learned Counsel for the petitioner, however, has placed reliance upon certain judgments which pertain to the cases where powers under section 482 Cr.P.C. for quashing of FIR registered under the SC & ST (Prevention of Atrocities) Act, 1989, were invoked. The principles laid down in those cases are, thus, not attracted in a case of granting the concession of pre-arrest bail under section 438 Cr.P.C.

Consequently, I do not find any merit in this petition, which is accordingly dismissed.

January 19, 2007. [**Surya Kant**]
kadyan **Judge**